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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

MAIORINO, ROZ

ART UNIT PAPER NUMBER

3763

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,448

Applicant(s)

EIDENSCHINK, TRACEE E.J.

Examiner

Roz Maiorino

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 2-16, 18, 23-38, 40-51, 53-56, 58-63, 65-68 and 70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 17, 19-22, 39, 52, 57, 64 and 69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/03, 4/02, 7/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 2-16, 18, 23-38, 40-51, 53-56, 58-63, 65-68, 70 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species and Group, there being no allowable generic or linking claim.

Applicant's election with traverse of Group I, Species A (claims 1, 17, 19, 20-22, 39, 52, 57, 64, 69) in response dated 2-20-2004 and 11-24-2003 is acknowledged. The traversal is on the ground(s) that having 14 embodiments in an application does not a serious burden. Examiner finds this line of argument very emotional however not persuasive because MPEP clearly allows for a restriction to be done on different embodiments and 14 different embodiment clearly puts a serious burden on the examiner

The requirement is still deemed proper and is therefore made **FINAL**.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3763

1. Claims 1, 17, 19, 20-21, 39, 64, 69, 52, 57 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6524300 to Meglin.

Meglin teaches a catheter apparatus comprising a hypo-tube comprising a tubular shaft with a tubular wall defining a lumen and a main section connected to a distal section, the distal section comprising a first section connected to a second section, the first section being connected to the main section and disposed between the main section and the second section, the first section comprising slits extending at least practically through the tubular wall, the second section comprising an elongated stinger 109/110 formed by a portion of the tubular wall, the stinger is tapered. The second section further comprised as elongated cutout of the tubular wall and the stinger is formed from a remaining portion of the tubular wall. (figures 1-3).

2. Claims 1, 17, 19, 20-22, 39, 64, 69, 52, 57 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5743876 to Swanson.

Swanson teaches a catheter apparatus comprising a hypo-tube comprising a tubular shaft with a tubular wall defining a lumen and a main section connected to a distal section, the distal section comprising a first section connected to a second section, the first section being connected to the main section and disposed between the main section and the second section, the first section comprising slits extending at least practically through the tubular wall, the second section comprising an elongated stinger formed by a portion of the tubular wall, the stinger is tapered. The second section further comprised as elongated cutout of the tubular wall and the stinger is formed from a remaining portion of the tubular wall. (figures 3).

Art Unit: 3763

3. Claims 1, 17, 19, 20-22, 39, 64, 69, 52, 57 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5,743,876 to Swanson.

Swanson teaches a catheter apparatus comprising a hypo-tube comprising a tubular shaft with a tubular wall defining a lumen and a main section connected to a distal section, the distal section comprising a first section connected to a second section, the first section being connected to the main section and disposed between the main section and the second section, the first section comprising slits 24 extending at least practically through the tubular wall, the second section comprising an elongated stinger 18 formed by a portion of the tubular wall, the stinger is tapered. The second section further comprises an elongated cutout 20 of the tubular wall and the stinger is formed from a remaining portion of the tubular wall. (figures 1a, 1b, 3-4).

4. Claims 1, 17, 19, 20-21, 39, 64, 69, 52, 57 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,152,909 to Bagaoisan et al.

Bagaoisan teaches a catheter apparatus comprising a hypo-tube comprising a tubular shaft with a tubular wall defining a lumen and a main section connected to a distal section, the distal section comprising a first section connected to a second section, the first section being connected to the main section and disposed between the main section and the second section, the first section comprising slits extending at least practically through the tubular wall, the second section comprising an elongated stinger formed by a portion of the tubular wall, the stinger is tapered. The second section further comprises an elongated cutout of the tubular wall and the stinger is formed from a remaining portion of the tubular wall. (figures 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 703-305-2336. The examiner can normally be reached on 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM